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*Attorneys for Richard Roe, John Q. Public,
and the Class*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MONICA SANTANA, individually and on behalf of all others similarly situated,

Plaintiff,

VS.

23ANDME, INC.,

Defendant.

Case No. 23-CV-5147-EMC

DECLARATION OF MELISSA A. GARDNER IN SUPPORT OF PLAINTIFFS RICHARD ROE AND JOHN Q. PUBLIC'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED

1 I, Melissa A. Gardner, declare as follows:

2 1. I am an attorney at Lieff Cabraser Heimann & Bernstein LLP, one of counsel for
3 Plaintiffs Richard Roe and John Q. Public (“Plaintiffs”) in *Roe et al. v. 23andMe, Inc.*, Case No.
4 3:24-cv-02319 (N.D. Cal.) (the “*Roe* Action”). Pursuant to Civil Local Rules 3-12 and 7-11, I
5 submit this Declaration in Support of Plaintiffs’ Administrative Motion to Consider Whether Cases
6 Should Be Related. I have personal knowledge of the facts stated in this Declaration and, if called
7 as a witness, I could and would testify competently to them.

8 2. The *Roe* Action was filed on April 18, 2024, and is not yet assigned to any judge.
9 *Santana v. 23andMe, Inc.*, No. 23-cv-5147-EMC (N.D. Cal.) (the “*Santana* Action”) was filed on
10 October 9, 2023, and is the first-filed action. The *Santana* Action is currently assigned to the
11 Honorable Edward M. Chen.

12 3. Following the filing of the *Santana* Action, over thirty cases, were filed in the
13 United States District Court for the Northern District of California and they, along with cases filed
14 in other jurisdictions, were sent to the Judicial Panel on Multidistrict Litigation.

15 4. On April 11, 2024, the Judicial Panel on Multidistrict Litigation issued a Transfer
16 Order pursuant to 28 U.S.C. § 1407 centralizing cases involving the data breach against Defendant
17 23andMe, Inc. to Judge Chen in the Northern District of California. MDL No. 3098, Dkt. 89
18 (J.P.M.L.) (Apr. 11, 2024). That order transferred thirty-one cases, including the above-captioned
19 case, to Judge Chen.

20 5. Judge Chen has not yet authorized direct filing in the MDL, which is captioned *In*
21 *re: 23andMe, Inc., Customer Data Security Breach Litigation*, 3:24-md-3098-EMC (N.D. Cal.).

22 6. The *Roe* Action concerns the same parties, transactions, and events as the cases that
23 have previously been transferred by the J.P.M.L. to Judge Chen. Each case names 23andMe, Inc.
24 as a defendant. Likewise, each action arises out of the October 2023 data breach that 23andMe
25 announced and is brought on behalf of 23andMe customers who had their personally identifiable
26 information stolen in the data breach. Furthermore, Plaintiffs’ action and the previously-filed
27 actions seek to represent similar proposed classes. Accordingly, all of these actions would result
28 in undue burden and work if conducted before different judges.

7. Given the large number of parties and counsel involved in this multidistrict litigation, *In re: 23andMe, Inc., Customer Data Security Breach Litigation*, 3:24-md-3098-EMC (N.D. Cal.), it would not be efficient to obtain a stipulation pursuant to Local Rule 7-11.

8. Concurrently with the filing of this Motion, the parties in the related actions will be served with copies of this motion and all supporting documents filed with it.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed this 18th day of April, 2024 in San Francisco, California.

/s/ Melissa A. Gardner
Melissa A. Gardner